

REMARKS

Claims 1-23 are pending in the application.

Claims 1-23 have been rejected.

No claims have been amended herein.

Claims 1-23 remain pending in this application.

Reconsideration of the claims is respectfully requested.

I. CLAIM REJECTIONS -- 35 U.S.C. § 103

Claims 1, 3-5, 7-8, 10, 12-14, 16-17, 19 and 21-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,654,343 to *Brandis, et al.* (hereinafter “Brandis”) in view of U.S. Patent No. 6,563,837 to *Krishna, et al.* (hereinafter “Krishna”). Claims 2, 11 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brandis and Krishna further in view of U.S. Patent Application Publication No. 2004/0179542 A1 to *Murakami, et al.* (hereinafter “Murakami”). Claims 6, 15 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brandis and Krishna further in view of U.S. Patent No. 6,289,021 to *Hesse* (hereinafter “Hesse”). Claims 9 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brandis and Krishna further in view of U.S. Patent Application Publication No. 2002/0135843 A1 to *Gruia* (hereinafter “Gruia”). The Applicant respectfully traverses the rejections.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a prima facie case of obviousness. MPEP § 2142, p. 2100-133 (8th ed. rev. 4, October

2005). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.* To establish a *prima facie* case of obviousness, three basic criteria must be met: *Id.* First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

Independent Claim 1 recites a router that includes a switch fabric and a plurality of routing nodes. The routing nodes are capable of transmitting and receiving data packets to and from external devices and, via the switch fabric, to other routing nodes. The switch fabric is capable of detecting when a bandwidth of one of its outputs has been exceeded and, in response, causing one of the routing nodes to slow its rate of transmitting data packets to the switch fabric.

Brandis describes a system for switch fabric flow control, in which packets arrive at the system on an input link (200), are buffered (in ingress scheduler 205 or ingress 300), pass through a switch fabric (210 or 330) to egress buffers (in egress scheduler 215 or egress 360), and out of the system via an output link (220).

In rejecting Claim 1, the Examiner asserted in paragraph 4 of Section 2 of the Office Action mailed August 20, 2008, that Brandis describes the recited switch fabric in ingress scheduler 205,

switch fabric 210, and egress scheduler 215—or, in the alternative, in ingress 300, switch fabric 330, and egress 360. The Examiner then adopts a contradictory position in paragraph 4 of Section 2, asserting that the ingress 300 and egress 360 describe the recited routing nodes that send and receive data to external devices via input link 200 and output link 220 and to each other via switch fabric 210 or 330.

The Applicant respectfully submits that, if the ingress 300 and egress 360 describe the recited switch fabric, they cannot describe the recited routing nodes that send information to each other via the switch fabric. Similarly, if the ingress 300 and egress 360 describe the recited routing nodes, they cannot describe the recited switch fabric that couples the routing nodes and carries data packets between the routing nodes.

Furthermore, if the recited switch fabric is described by ingress scheduler 205, switch fabric 210, and egress scheduler 215, then there are no remaining elements in the system of Brandis to describe the recited routing nodes. And, if the ingress 300 and egress 360 describe the recited routing nodes, then Brandis describes the routing nodes (rather than the switch fabric, as recited in Claim 1) sending the flow control messages that cause the ingress to slow its sending of packets. Under either interpretation, the Applicants respectfully submit that the cited references fail to describe all the limitations of Claim 1.

For at least these reasons, independent Claim 1 is patentable over Brandis and Krishna, alone or in combination. Independent Claims 10 and 19 recite limitations analogous to the novel and non-obvious limitations emphasized in traversing the rejection of Claim 1 and, therefore, also are

patentable over the cited references. The Applicants respectfully submit that Murakami, Hesse, and Gruia do nothing to overcome the shortcomings of Brandis and Krishna. Claims 2-9, 11-18 and 20-23 depend from Claims 1, 10 and 19, respectively, and include all the limitations of their respective base claims. Therefore, Claims 2-9, 11-18 and 20-23 also are patentable over the cited references.

Accordingly, the Applicant respectfully requests that the Examiner withdraw the § 103 rejections with respect to Claims 1-23.

CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at ***jmockler@munckcarter.com***.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK CARTER, P.C.



John T. Mockler
Registration No. 39,775

Date: November 20, 2008
P.O. Drawer 800889
Dallas, Texas 75380
Phone: (972) 628-3600
Fax: (972) 628-3616
E-mail: ***jmockler@munckcarter.com***